

76-10-1101. Definitions.

As used in this part:

(1) (a) "Fringe gambling" means any gambling, lottery, or video gaming device which is:

(i) given, conducted, or offered for use or sale by a business in exchange for anything of value; or

(ii) given away incident to the purchase of other goods or services.

(b) "Fringe gambling" does not mean a promotional activity that is clearly ancillary to the primary activity of a business.

(c) Determination of whether a promotional activity is clearly ancillary under Subsection (1)(b) is by consideration of the totality of the circumstances, which may include one or more of these factors:

(i) the manner in which the business is marketed, advertised, or promoted;

(ii) whether and the degree to which the business provides instructions regarding the use or operation of the promotional activity, as compared to the use or operation of the goods or services sold by the business;

(iii) the availability and terms of any free play option to engage in the promotional activity;

(iv) whether any contest, sweepstakes, or other promotional entries provided to customers who purchase goods or services from the business provide any advantage in winning a prize over any advantage provided to participants in the promotional activity who do not purchase goods or services from the business;

(v) whether the goods or services promoted for purchase by the business are on terms that are commercially reasonable; and

(vi) whether any prize won by participation in the promotion may be parlayed into one or more additional opportunities to win an additional prize.

(2) (a) "Gambling" means risking anything of value for a return or risking anything of value upon the outcome of a contest, game, gaming scheme, or gaming device when the return or outcome:

(i) is based upon an element of chance; and

(ii) is in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome.

(b) "Gambling" includes a lottery and fringe gambling.

(c) "Gambling" does not include:

(i) a lawful business transaction; or

(ii) playing an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(3) "Gambling bet" means money, checks, credit, or any other representation of value.

(4) "Gambling device or record" means anything specifically designed for use in gambling or used primarily for gambling.

(5) "Gambling proceeds" means anything of value used in gambling.

(6) "Internet gambling" or "online gambling" means gambling or gaming by use of:

(a) the Internet; or

(b) any mobile electronic device that allows access to data and information.

(7) "Lottery" means any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining property, or portion of it, or for any share or any interest in property, upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by whatever name it is known.

(8) "Video gaming device" means any device that possesses all of the following characteristics:

- (a) a video display and computer mechanism for playing a game;
- (b) the length of play of any single game is not substantially affected by the skill, knowledge, or dexterity of the player;
- (c) a meter, tracking, or recording mechanism that records or tracks any money, tokens, games, or credits accumulated or remaining;
- (d) a play option that permits a player to spend or risk varying amounts of money, tokens, or credits during a single game, in which the spending or risking of a greater amount of money, tokens, or credits:
 - (i) does not significantly extend the length of play time of any single game; and
 - (ii) provides for a chance of greater return of credits, games, or money; and
- (e) an operating mechanism that requires inserting money, tokens, or other valuable consideration in order to function.

Amended by Chapter 27, 2012 General Session
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